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NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER HUYNH, LOUIS K	
			ART UNIT 3721	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/595,924
Filing Date: May 19, 2006
Appellant(s): OEHMS ET AL.

Mark D. Marin
For Appellant

EXAMINER'S ANSWER

Art Unit: 3721

This is in response to the appeal brief filed 10/15/2009 appealing from the Office action mailed 01/22/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 3-24 stand rejected under 35 U.S.C. 102(b) as being anticipated by WO'454 (WO 02/092454).

- With respect to claims 3-7, WO'454 discloses a method for manufacturing a rigid water-soluble container containing a detergent composition that meet all of Appellants' claimed subject matter; in particular, the method of WO'454 comprises the steps of: forming a container by sequentially injection molding (page 15, line 29 – page 16, line 2) in part from a first polyvinyl alcohol (PVOH) polymer (page 16, lines 4-6) and in part from a second polymaleic acid polymer (page 15, lines 24-27), keeping the container in a substantially anhydrous condition by not wetting the container with water, filling the container with a detergent composition (page 16, lines 31-32), sealing the filled container (page 17, lines 1-4), and allowing the sealed container to come into contact with a plasticizer by exposing the sealed container to ambient air prior to packaging such that the container absorbs moisture (water) from the air as a natural phenomenon.
- With respect to claims 8, 9 & 11, the container made by the method of WO'454 comprises a water-soluble receptacle part and a water-soluble closure part; wherein the closure part can be in the form of a film (page 17, lines 1-4) or alternatively in the form of a rigid closure (page 17, line 16-19), and wherein the closure part is formed from a plastic film comprising polyvinyl alcohol (PVOH) (page 14, lines 11-15).

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- With respect to claim 10, the receptacle part of the container made by the method of WO'454 has side walls that terminate at their upper end in an outward flange (page 13, lines 24-28).
- With respect to claim 12, in the method of WO'454, the detergent composition to be filled into the container may comprise a powder, gel, paste or low water liquid formulation (page 20, lines 13-14).
- With respect to claim 13, the container made by the method of WO'454 may contain a composition in the form of gel tablet that may be formulated to dissolve slowly depending on the intended use (pg. 18, line 24-31).
- With respect to claim 14, the receptacle part of the container made by the method of WO'454 may have upstanding wall that separates the receptacle part into separate compartments (page 17, line 23 - page 18, line 5).
- With respect to claim 15, the closure part of the container made by the method of WO'454 is of transparent or translucent material (page 18, lines 16-18).
- With respect to claim 16 & 17, the method of WO'454 forms an array of connected containers, wherein individual container can be separated from the array via a line of weakness (page 16, lines 22-24).
- With respect to claim 18, the forming step in method of WO'454 further comprises the steps of: melting the polymer, injecting the molten polymer into a mold, removing the rigid container from the mold; and the step of filling comprises adding fabric care, surface care or dishwashing composition (page 39, line 23-28).

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- With respect to claims 19-23, the method of WO'454 further comprises injecting a first polymer and an additional polymer into the mold simultaneously or sequentially (page 39, lines 30-32); wherein the specific technique and/or steps recited in claims 20-23 are disclosed on page 40, lines 1-25.
- With respect to claim 24, WO'454 discloses a method for manufacturing a rigid water-soluble container containing a detergent composition that meet all of Appellants' claimed subject matter; in particular, the method of WO'454 comprises the step of: forming an array of containers in an injection molding process; removing the array from the mold; placing the array in a storage area; filling the array of containers with the detergent composition; placing a closure on the array; sealing the containers; and separating the array into individual containers (page 16, line 30 - page 17, line 5). Note that the step of placing the array in a storage area is an inherent step because it is known in the art that the array of containers must be taken out of the mold at the injection molding station and must be transferred from the injection molding station to the next station for further processing; the container must be placed in a storage area while waiting to be transferred and/or during transfer such as a transfer cart; hence the step of placing the array in a storage area.

(10) Response to Argument

Appellants' arguments filed on 10/15/2009 have been fully considered but they are not persuasive.

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- Appellants contend that the presently claimed invention requires that the containers be kept in a substantially anhydrous environment or conditions prior to filling with detergent composition, that the term “anhydrous conditions” is to be interpreted to mean that the surrounding environment has substantially no water, and that there is absolutely nothing to suggest that the WO’454 teaches keeping the container in anhydrous conditions. This is not found persuasive because: (1) the phrase “in a substantially anhydrous environment” is not found in the claims, (2) the claims are given the broadest reasonable interpretation and the limitations from the specification are not imported into the claims; therefore, the term “anhydrous conditions” has been reasonably interpreted to mean “conditions in which object is not wetted with water,” and (3) the phrase “keeping the container under substantially anhydrous conditions” has been reasonably interpreted as to mean “keeping the container in conditions of substantially not being wetted with water,” the method of WO’454 does not disclose any step of watering the container or wetting the container with water; thus anticipates the step of “keeping the container under substantially anhydrous conditions.” In fact, the container formed by the process of WO’454 is a water-soluble container that must not be wetted with water and must be kept in a dried condition prior to filling with the detergent composition and sealing to form a commercial product. Furthermore, the phrase “substantially anhydrous conditions” is to mean that some water, such as moisture in the ambient atmosphere, does exist in such conditions; thus it is clear that the method of WO’454 anticipates the presently claimed invention. The

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claim language has been reasonably interpreted and the rejection of the claims as being anticipated by WO'454 has been maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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